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DEC 30 2005

OFFICE OF PETITIONS

In re Application of
Alcott
Application No. 09/746,618
Filed: 7/2/2001
Attorney Docket No. 8285-422

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:
:DECISION REGARDING PTA
:RECONSIDERATION
:
:

This decision is filed in response to applicants' submission of a paper title REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) timely¹ filed on June 15, 2005 requesting that the Office adjust the PTA calculation from a determination of 273 days to a determination of four hundred and seventy-one days at the time of the mailing of the notice of allowance.

Applicants request for reconsideration of PTA is dismissed. The correct amount of PTA at the time of the mailing of the notice of allowance is two hundred and seventy-three days.

Applicants assert that the correct amount of PTA at the time of the mailing of the notice of allowance is four hundred and seventy-one days due to the patent failing to issue the application within three years of the filing date as projected issue date. Applicants project the date that the application would issue is six hundred and thirty-nine days after the three year filing date under 37 CFR 1.702(b). Applicants assert that their delay amounted to an amount of one hundred and sixty-eight days of PTA pursuant to 37 CFR 1.704(b). Accordingly, applicants assert that the correct amount of PTA is four hundred and seventy-one (639-168=471) days.

Applicants arguments are not persuasive for the following reason. The Office determines the amount of time that applicants receive for the Office's failure to issue the application within three years of the filing date at the time of the issue notification letter which is mailed to applicant approximately three weeks prior to issuance of the application. This determination is reflected in the amount of PTA that is granted in the issue notification letter. In the issue notification letter that was mailed to applicants on or about December 21, 2005 notifying applicants of a January 10, 2006 issue date, the Office also notified applicants that amount of PTA is 583 days and the amount of delay for failing to issue the application within three years

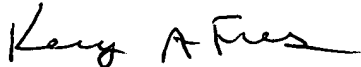
¹Issue fee was also paid on June 15, 2005.

of the filing date is 751 days. Accordingly, applicants overall amount of PTA is $(751-168 = 583)$ five hundred and eighty-three days.²

After the mailing of this decision, this application will be forwarded to patented files for proper storage of such file.

The Office hereby acknowledges the submission of \$200.00 check for the request for reconsideration of PTA fee. No additional fees are required for this decision.

Any questions regarding this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: copy of PTA determination

²The Office notes that the Office failed to meet the requirements of 37 CFR 1.702(a)(1) by a period of 441 days and failed to meet the qualifications of 37 CFR 1.702(a)(4) by a period of eighty-seven (87) days. However, because such periods overlap with the three year provision no additional time is granted beyond the 751 days granted for over three years to issue. See 37 CFR 1.703(f) and clarification notice published by the Office in _____